

1978

## c 54 The Workmen's Compensation Amendment Act, 1978

Ontario

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## CHAPTER 54

**An Act to amend  
The Workmen's Compensation Act**

*Assented to June 23rd, 1978*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *a* of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 3, is repealed and the following substituted therefor: s. 36 (1) (a).  
re-enacted
- (a) the necessary expenses of the burial or cremation of the employee, not exceeding \$800.
- (2) Clauses *c*, *d* and *f* of subsection 1 of the said section 36, as re-enacted by the Statutes of Ontario, 1974, chapter 70, section 1, are repealed and the following substituted therefor: s. 36 (1) (c, d, f).  
re-enacted
- (c) where the widow or widower is the sole dependant, a monthly payment of,
- (i) \$318, effective the 1st day of July, 1976,
- (ii) \$344, effective the 1st day of July, 1977, and
- (iii) \$365, effective the 1st day of July, 1978;
- (d) where the dependants are a widow or a widower and one or more children, a monthly payment of,
- (i) \$318 with an additional monthly payment of \$86 to be increased upon the death of the widow or widower to \$98 for each child under the age of sixteen years, effective the 1st day of July, 1976,

(ii) \$344 with an additional monthly payment of \$93 to be increased upon the death of the widow or widower to \$106 for each child under the age of sixteen years, effective the 1st day of July, 1977, and

(iii) \$365 with an additional monthly payment of \$99 to be increased upon the death of the widow or widower to \$113 for each child under the age of sixteen years, effective the 1st day of July, 1978;

. . . . .

(f) where there are dependants other than those mentioned in clauses *c*, *d* and *e*, and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole,

(i) \$318 a month effective the 1st day of July, 1976,

(ii) \$344 a month effective the 1st day of July, 1977, and

(iii) \$365 a month effective the 1st day of July, 1978.

s. 36(1)(e),  
re-enacted

(3) Clause *e* of subsection 1 of the said section 36, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1, is repealed and the following substituted therefor:

(*e*) where the dependants are children, for each child under the age of sixteen years, a monthly payment of,

(i) \$98, effective the 1st day of July, 1976,

(ii) \$106, effective the 1st day of July, 1977, and

(iii) \$113, effective the 1st day of July, 1978.

Application

(4) Clause *a* of subsection 1 of section 36 of the Act, as re-enacted by subsection 1, applies only where the death occurs on or after the 1st day of July, 1978.

(5) Clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, <sup>idem</sup> as re-enacted by subsections 2 and 3, apply to payments accruing after the effective dates, but nothing therein entitles any person to claim additional compensation for any period prior to the effective dates.

(6) The amounts payable under clauses *c*, *d*, *e* and *f* of subsection 1 of the said section 36, as re-enacted by subsections 2 and 3, do not apply to a lump sum award or to payments due prior to the effective dates. <sup>idem</sup>

2.—(1) Subsection 7 of the said section 36, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 3, is repealed <sup>s. 36 (7), re-enacted</sup> and the following substituted therefor:

(7) In addition to any other compensation provided for, <sup>Payment of lump sum</sup> the widow or widower, or where the employee leaves no widow or widower, the person described in subsection 6, is entitled to a lump sum of \$800.

(2) Subsection 7 of section 36 of the Act, as re-enacted by subsection 1, applies only where the death occurs on or after the 1st day of July, 1978. <sup>Application</sup>

3.—(1) Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, 1974, chapter 70, <sup>s. 42, amended</sup> section 3 and 1975, chapter 47, section 6, is further amended by adding thereto the following subsection:

(8c) The amounts payable under this section shall be <sup>Increase in payments</sup> increased where the injury occurred,

(a) on or before the 31st day of December, 1975, by adding thereto a factor of 11 per cent effective the 1st day of July, 1976;

(b) on or before the 31st day of December, 1976, by adding thereto a factor of 8 per cent effective the 1st day of July, 1977; and

(c) on or before the 31st day of December, 1977, by adding thereto a factor of 6 per cent effective the 1st day of July, 1978.

but the amounts of compensation to which an employee is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings computed under subsection 1 of section 44 which is,



(d) effective on the 1st day of July, 1975, for amounts accruing in the period from the 1st day of July, 1975 to the 30th day of June, 1978; and

(e) effective on the 1st day of July, 1978, for amounts accruing on and after the 1st day of July, 1978.

s. 42 (9)  
re-enacted

(2) Subsection 9 of the said section 42, as re-enacted by the Statutes of Ontario, 1975, chapter 47, section 6, is repealed and the following substituted therefor:

Non-  
application  
of subss. 4, 6,  
8-8c, s. 43 (b)

(9) Subsections 8, 8a, 8b and 8c do not apply to a lump sum award previously made by the Board under this Part, including an award that was previously commuted or paid as a lump sum under subsection 4, an award under subsection 6 or an award under clause b of section 43.

s. 43,  
re-enacted

4.- (1) Section 43 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 2 and amended by 1973, chapter 173, section 1, 1974, chapter 70, section 4, and 1975, chapter 47, section 8, is repealed and the following substituted therefor:

Minimum  
amount of  
compensation

43. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured employee is entitled shall not be less than,

(a) for temporary total disability,

(i) \$115 a week where his average earnings are not less than \$115 a week, and

(ii) the amount of his earnings where his average earnings are less than \$115 a week,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 42 and 44, but the amount of such pension shall not be less than,

(i) for permanent total disability,

1. \$444 a month for the period from the 1st day of July, 1976, to and including the 30th day of June, 1977,

2. \$480 a month for the period from the 1st day of July, 1977, to and including the 30th day of June, 1978, and

3. \$509 a month from the 1st day of July, 1978, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause i in accordance with the impairment or earning capacity; or

(c) alternatively to subclause i of clause b, for permanent total disability the benefits which would have been payable from time to time under clauses c, d and e of subsection 1 of section 36 and under section 38, as if he had died from the injury.

(2) Clause a of section 43 of the Act, as re-enacted by sub-Application section 1, applies to accidents occurring on and after the 1st day of July, 1978, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1978.

(3) Clauses b and c of the said section 43, as re-enacted by Idem subsection 1, apply to payments accruing on and after the 1st day of July, 1976, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1976.

5.—(1) Subsection 1 of section 44 of the said Act, as amended s. 44 (1),  
by the Statutes of Ontario, 1973, chapter 173, section 1 amended  
and 1975, chapter 47, section 10, is further amended by  
striking out "\$15,000" in the amendment of 1975 and  
inserting in lieu thereof "\$16,200".

(2) Subsection 1 of section 44 of the Act, as amended by Application  
subsection 1, applies to accidents occurring on and after  
the 1st day of July, 1978, but does not apply to a  
commutation lump sum award previously made, including  
an award under subsection 4 of section 42, or to an  
award made under subsection 6 of section 42, or to an  
award under clause b of section 43 of the Act, and nothing  
in subsection 1 entitles any person to claim additional  
compensation for any period prior to the 1st day of July,  
1978.

6.—(1) Clause b of subsection 3 of section 51 of the said Act, as s. 51 (3) (b),  
re-enacted by the Statutes of Ontario, 1975, chapter 47, re-enacted

section 12. is repealed and the following substituted therefor:

- (b) on application, an allowance not exceeding \$219 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$110 per annum in respect of an upper limb prosthesis, where such lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

. . . . .

Application

- (2) Clause *b* of subsection 3 of section 51 of the Act, as re-enacted by subsection 1, applies to payments accruing on and after the 1st day of July, 1978, but nothing therein entitles any person to claim additional payment for any period prior to the 1st day of July, 1978.

1975 c. 47,  
s. 16,  
repealed

7. Section 16 of *The Workmen's Compensation Amendment Act, 1975*, being chapter 47, is repealed.

Commence-  
ment

8. This Act comes into force on the 1st day of July, 1978.

Short title

9. The short title of this Act is *The Workmen's Compensation Amendment Act, 1978*.